

REMARKS

Claims 6-11, as amended and previously presented, and new claims 21-32 now appear in this application for the Examiner's review and consideration. Claim 10 has been amended to depend from claim 6, rather than claim 1. No new matter has been entered.

The cancellation of claims 1-5 and 12-20 renders moot all rejections of those claims. In particular, the 35 U.S.C. § 102(b) rejection of claims 1-5 and 10 and the obviousness type double patenting rejection of claims 1, 3, 4, 5 and 10 are overcome due to the current claim amendment and cancellations.

Claims 6-9 and 11-13 were rejected 35 U.S.C. § 103(a) as being unpatentable over the combination of U.S. Patents 6,403,109 (Stora) and 6,419,909 (Lorant et al.) for the reasons set forth on page 4 of the Office Action. Applicant respectfully traverses the rejection.

As the Stora patent is owned by the same assignee as the present application, namely, Firmenich SA, it is improper to use that patent as a prior art reference for obviousness 35 U.S.C. § 103(c). Here, the Stora patent is assigned on its face to Firmenich SA, and the present application is also assigned to Firmenich SA as evidenced by an assignment that was recorded on November 24, 2003 at Reel 014755 Frame 0341. Accordingly, obviousness rejections based on the Stora patent cannot be properly be made under 35 U.S.C. § 103(a).

Furthermore, as previously explained, that present claims and their underlying inventive concept are different from Stora. While both inventions provide low-viscosity emulsions capable of containing elevated amounts of perfume, Stora addresses the problem of rendering an emulsion transparent. This is achieved by adding, to the oily phase of the emulsion, a substance that is capable of changing the refractive index of the oily phase to bring it close with the one of the aqueous phase. By doing this, the emulsion becomes transparent. In contrast, the present claims are not at all concerned with the problem of obtaining transparency. Actually, transparency is preferably achieved by the use of a very small droplet size (200 nm – 1 mm, see para [0035]), which can easily be adjusted to be below the wavelength of light. With the droplets being smaller than the wavelength of light, transparency is obtained. Rather than transparency, the present invention resolves the problem of stability, see paragraphs [0003] to [0005], and the solution is provided by modifying the oily phase to have the same density as the aqueous phase, by adding a volatile fluorinated oil

with a density of >1. Thus, applicant respectfully submits that Stora does not teach the present invention.

Accordingly, this rejection has been overcome and should be withdrawn.
Accordingly, claims 6-13 are now in condition for allowance.

The new claims depend from the allowable claims. In particular, claim 21 is supported by claim 12, claims 22-25 by claims 2-5, claims 26-28 by claims 7-9 and claims 29-32 by claims 2-5. Thus, no new matter has been introduced and these claims should be allowed with claims 6-13.

In view of the above, the entire application is believed to be in condition for allowance, early notification of such would be appreciated. Should the Examiner not agree, a personal or telephonic interview is respectfully requested to discuss any remaining issues in order to expedite the eventual allowance of the claims.

Respectfully submitted,

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